

S/N 10/783,872  
AMENDMENT

ATTY DOCKET NO. 0253-0001

### REMARKS

This amendment is intended to respond fully to the Office action mailed January 11, 2006, and to place this application in condition for allowance.

#### Drawings

The Examiner objected to the drawings under 37 CFR 1.83(a), stating that the tubular elongate members of claim 4 must be shown. Applicant responded to this objection in the previous response:

“Reconsideration is requested. Upon reconsideration, it is noted that the generally tubular members 14, 16 are shown in Figs. 1-4 of the drawings, as described in the description, paragraph 0014:

[0014] Each member 14, 16 is preferably rigid to prevent fence 10 from collapsing if animals try jumping over fence 10 to enter the garden or into fence 10 in an attempt to collapse it. In one embodiment, each member 14, 16 is generally tubular, and preferably, each member 14, 16 is generally cylindrical, as shown in FIG. 2, having a diameter that is large enough to provide strength and durability to member 14, 16, yet small enough so that fence 10 does not block too much light from the plants in the garden....”

If the Examiner requires something further, it is requested that he telephone applicant's representative.

#### Claim Rejections - 35 USC section 103

Claims 1-3 and 6-14 have been rejected under 35 USC 103 (a) as unpatentable over Rowan, US patent 3,484,081. Independent claims 1, 12, and 14 have been amended to clarify that, in Applicant's fence module each of said upper and lower crossbars comprises a single continuous, solid and unbroken member, in order to stabilize module into being generally rigid. Moreover, the row of elongate members joined by these crossbars comprises a pair of end members and a plurality of intermediate members, and each of the end members and intermediate members has a tapered lower end extending at least about 3 inches below said lower crossbar for insertion into ground.

The Examiner points out that Rowan discloses a fence made of more than one unit, constituting what Examiner considers a module, having a crossbar continuous, solid, and unbroken. Rowan, however, clearly teaches the crossbar to include hinges, as in the

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Rowan Abstract of the Disclosure: "A picket fence for easy assembly is provided in which a series of individual picket units are hingedly engaged with each other..."

Moreover, claim 1 of the Rowan patent recites "a picket fence comprising a series of repeating units hingedly engaged with each other to form a fence...." Thus, the Rowan fence module contains a hinged joint between each unit, rendering these crossbars flexible at the joints and thereby not stabilized into a rigid form.

Applicant fence module's sturdiness is accomplished through its continuous, solid, and unbroken crossbars, whereas the Rowan module contains hinges within its crossbars rendering it flexible and not rigid or sturdy.

With respect to claims 2, 3, 6, 7, 8, 9, 10, 11 and 13, the above amendments in clarification of independent claims 1, 12 and 14, that Applicant's fence module is generally rigid through its continuous, solid and unbroken crossbars, unlike the module taught in the Rowan patent, where several units are combined with hinges rendering it flexible, by addition of the language describing the crossbars, in order to stabilize said module into being generally rigid, is believed to render these rejections moot.

For the foregoing reasons, Applicant respectfully requests reconsideration and allowance of all claims as amended.

If the Examiner believes it would help to advance the prosecution, the undersigned attorney would welcome the opportunity to discuss the application in a further telephone interview and can be reached at (312) 201-0011.

Respectfully submitted,

Dated this 13<sup>th</sup> day of March, 2006.

  
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